

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR SUSSEX COUNTY**

ALCEA SPRUNG,

Appellant,

v.

SELBYVILLE CLEANERS, *and*
UNEMPLOYMENT INSURANCE
APPEAL BOARD,

Appellee.

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C.A. No. 06A-06-004-RFS

Submitted: April 12, 2007

Decided: April 23, 2007

MEMORANDUM OPINION

Upon Appellant's Appeal of the Unemployment Insurance Appeal Board. Reversed.

Alcea Sprung, Pro Se, Appellant.

Selbyville Cleaners, Pro Se, Appellee.

STOKES, J.

This is my decision regarding Alcea Sprung's appeal from the Unemployment Insurance Appeal Board's denial of unemployment benefits. For the reasons set forth herein, the Board is reversed.

STATEMENT OF FACTS

Alcea Sprung (hereinafter "Sprung") was employed for just over one year with Selbyville Cleaners (hereinafter "Employer"). On November 8, 2005 Sprung requested a raise, which was later denied. The substance of this dispute comes from whether the request for a raise was coupled with an ultimatum. Sprung suggests that in making the request she never intended to quit her job. Employer posits that Sprung, in effect, said give me the raise or I will quit.

Following her dismissal, Sprung applied for unemployment benefits. Sprung's application was denied. Appeal was taken from the denial of benefits. The Appeals Referee held a hearing, with Sprung present in person and Employer present via phone. The Appeals Referee heard testimony from Sprung, Employer and one witness. The Referee concluded that Sprung quit her job voluntarily without good cause and was not entitled to benefits.

Sprung appealed the Referee's decision to the Unemployment Insurance Appeal Board (hereinafter "Board"). The Board set a hearing date and location. The location specified on the notice was Dover. Sprung errantly appeared at the Georgetown office on the date of the hearing. From the Georgetown office, she called the Dover office and requested a rescheduling of the hearing. In response, she was told to make a written request to the Board.

On June 3, 2006, Claimant made a written request to the Board for a rehearing. The Board denied the request. Subsequently, Claimant appealed the matter to this Court; citing the allegedly

wrongful denial of a rehearing as one of her grounds for appeal.

A brief schedule was issued by the Superior Court. Sprung filed her opening brief by the stated deadline. Employer failed to file an answering brief by the September 11, 2006 deadline. A Final Delinquent Brief Notice was sent by the Court on October 5, 2006, giving Employer seven days from the date of notice to file an answer. Employer again failed to provide the Court with a response. On March 14, 2007 the Court informed Employer, by letter, that it was required to file an answering brief. The Court's letter further noted that if a response was not submitted by April 12, 2007 the administrative board's decision may be reversed without further notice from the Court under Civil Rule 107. No response was received.

DISCUSSION

The efficiency and effectiveness of our judicial system relies heavily on the diligent actions of those involved in legal disputes. Filing deadlines are in place to promote such judicial efficiency. Because of this, the inexcusable failure of a party to respond when required to do so cannot be treated lightly by this Court.

In *Hunter v. First USA/Bank One*, 2004 Del. Super. LEXIS 123 (Del. Super. Apr. 15, 2004), the Superior Court in New Castle County addressed an issue very similar to the one at hand. In *Hunter*, the Board denied benefits on grounds that the claimant had been discharged for proper cause. The claimant appealed the matter to the Superior Court. A brief schedule was issued and no response was submitted by the employer. Therefore, the Court concluded that, "despite the formidable 'substantial evidence' found to exist by the Board, the Court has no other alternative but to reverse the Board's decision due to Appellee's [employer's] failure to diligently prosecute and file

its brief pursuant to Rule 107(e).” *Hunter v. First USA/Bank One*, 2004 Del. Super. LEXIS 123, at *18 (Del. Super. Apr. 15, 2004).

The court in *Hunter* further noted that parties whose rights are to be affected have a right to be heard. However, that right was qualified by the notion that due process only requires that a party be properly notified of their duty to respond. The court noted specifically that the *Hunter* case is “one of those rare instances when a party’s unexplained inaction proves both disadvantageous to its cause, and results in a windfall for its adversary.” *Id.* at *19-20.

The Court must maintain its neutrality and will not advocate a party’s position *sua sponte*. Employer has been afforded every opportunity to respond to this claim and has failed to do so. Superior Court Civil Rule 107(e) provides that “if any brief, ... or any other paper which is or should be a part of a case pending in this Court, is not served and filed ... in accordance with any order of the Court ..., the Court may, in its discretion, dismiss the proceeding if the plaintiff is in default, ..., or take such other action as it deems necessary to expedite the disposition of the case.” Del. Super. Ct. Civ. R. 107(e). In light of this, the Court is left with no other alternative but to reverse the Board’s decision.

CONCLUSION

Considering the foregoing, the decision of the Unemployment Insurance Appeal Board is reversed.

IT IS SO ORDERED

cc: Prothonotary